

## **REMARKS**

### **I. Introduction**

With the addition of new claims 86 to 100, claims 50 to 56 and 86 to 100 are pending in the present application. In view of the foregoing amendments and the following remarks, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

Applicant thanks the Examiner for considering the previously filed Information Disclosure Statements, PTO-1449 papers and cited references.

### **II. Objection to the Specification**

As regards the objection to the Specification, the Examiner will note that the Specification has been amended herein as suggested. No new matter has been added. Withdrawal of this objection is therefore respectfully requested.

### **III. Allowable Subject Matter**

Applicant notes with appreciation the indication of allowable subject matter contained in claim 56. In this regard, the Examiner will note that claim 56 has been rewritten herein in independent form to include all of the limitations of claim 50. It is therefore respectfully submitted that claim 56 is in condition for immediate allowance.

### **IV. Rejection of Claims 50 and 52 to 54 Under 35 U.S.C. § 102(e)**

Claims 50 and 52 to 54 were rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 6,187,348 ("Polster"). Applicant respectfully submits that Polster does not anticipate the present claims as amended herein for the following reasons.

Claim 50 relates to an in-shell egg pasteurization system. Claim 50 as amended herein without prejudice recites that the system includes a spiral oven configured to increase a temperature of an in-shell egg to a first predetermined temperature in a range of between 120°F and 140°F for a predetermined time interval. Support for the amendment to claim 50 may be found, for example, on page 18, lines 33 to 36.

Polster purports to relate to a process for heat treating food product. Polster makes no mention whatsoever of a spiral oven configured to increase a

temperature of an in-shell egg to a first predetermined temperature in a range of between 120°F and 140°F for a predetermined time interval.

To anticipate a claim, each and every element as set forth in the claim must be found in a single prior art reference. Verdegaal Bros. v. Union Oil Co. of Calif., 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). Furthermore, “[t]he identical invention must be shown in as complete detail as is contained in the . . . claim.” Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). That is, the prior art must describe the elements arranged as required by the claims. In re Bond, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990). As more fully set forth above, it is respectfully submitted that Polster does not disclose, or even suggest, a spiral oven configured to increase a temperature of an in-shell egg to a first predetermined temperature in a range of between 120°F and 140°F for a predetermined time interval as recited in amended claim 50. It is therefore respectfully submitted that Polster does not anticipate amended claim 50.

As for claims 52 to 54, which ultimately depend from claim 50 and therefore include all of the limitations of claim 50, it is respectfully submitted that Polster does not anticipate these dependent claims for at least the same reasons more fully set forth above in support of the patentability of claim 50

In view of all of the foregoing, withdrawal of this rejection is respectfully requested.

#### **V. Rejection of Claims 50 to 55 Under 35 U.S.C. § 102(e)**

Claims 50 to 55 were rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 6,455,094 (“Ball et al.”). Applicant respectfully submits that Ball et al. do not anticipate the present claims as amended herein for the following reasons.

As more fully set forth above, claim 50 has been amended herein without prejudice to recite that the system includes a spiral oven configured to increase a temperature of an in-shell egg to a first predetermined temperature in a range of between 120°F and 140°F for a predetermined time interval.

Ball et al. purport to relate to treatment of food products using humidity controlled air. Ball et al. state that heating of shell eggs “were conducted using a commercial COMBITHERM® Combination Oven/Steamer (Model 7-14 G;

Alto-Shaam, Inc., Menomonee Falls, Wis.),” col. 8, lines 41 to 43, but make no mention or suggestion of heating an in-shell egg in a spiral oven as recited in amended claim 50. It is therefore respectfully submitted that Ball et al. do not anticipate amended claim 50

As for claims 51 to 55, which ultimately depend from claim 50 and therefore include all of the limitations of claim 50, it is respectfully submitted that Ball et al. do not anticipate these dependent claims for at least the same reasons more fully set forth above in support of the patentability of claim 50.

In view of all of the foregoing, withdrawal of this rejection is respectfully requested.

#### **VI. New Claims 86 to 100**

New claims 86 to 100 have been added herein. It is respectfully submitted that new claims 86 to 100 do not add any new matter and are fully supported by the present application, including the Specification.

Since claims 86 and 87 depend from claim 50, it is respectfully submitted that claims 86 and 87 are patentable over the references relied upon for at least the same reasons more fully set forth above in support of the patentability of claim 50.

Since claims 87 to 97 ultimately depend from claim 56, which was indicated to include allowable subject matter, it is respectfully submitted that claims 87 to 97 are patentable over the references relied upon for at least the same reasons that claim 56 was indicated to include allowable subject matter.

As for independent claims 98 and 99, it is respectfully submitted that claims 98 and 99 are patentable over the references relied upon for at least the reason that the references relied upon do not disclose the combination of “an oven configured to increase a temperature of an in-shell egg to a first predetermined temperature in a range of between 120°F and 140°F for a predetermined time interval” and “arranged at least one of (a) upstream and (b) downstream of the oven, at least one of (a) an orientor configured to orient the in-shell egg, (b) an egg washer configured to wash the in-shell egg, (c) a dirt detection and removal device configured to detect dirt on a surface of the in-shell egg and remove the in-shell egg in accordance with the detection of dirt on the surface of the in-shell egg, (d) a blood detection and removal device configured to detect blood inside the in-shell egg and

to remove the in-shell egg in accordance with the detection of blood inside the in-shell egg, (e) a crack detection and removal device configured to detect a crack in the in-shell egg and to remove the in-shell egg in accordance with the detection of a crack in the in-shell egg, (f) a preheater configured to preheat the in-shell egg, (g) a sizer configured to determine a size of the in-shell egg, (h) a dryer configured to dry the in-shell egg, (i) a cooler configured to cool the in-shell egg, (j) a packer configured to pack the in-shell egg, and (k) a grader configured to grade the in-shell egg."

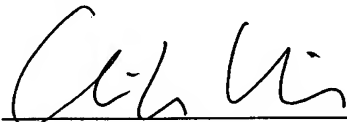
As for independent claim 100, since claim 100 includes features analogous to features included in claim 56, it is respectfully submitted that claim 100 is patentable over the references relied upon for at least the same reasons that claim 56 was indicated to include allowable subject matter.

#### **VII. Conclusion**

It is therefore respectfully submitted that all of the presently pending claims are allowable. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

KENYON & KENYON

Dated: October 12, 2004 By:   
Clifford A. Ulrich  
Reg. No. 42,194

One Broadway  
New York, New York 10004  
(212) 425-7200

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